

REMARKS

Applicant respectfully requests reconsideration and allowance of the present application.

Status of the Claims

Claims 1-48 were pending in the application. Claims 1, 7, 11, 13, 15, 18, 19, 25, 26, 28-31, 35, 37, 38, 40, 43, and 44 have been amended. Claims 24, 27, and 36 have been canceled. New Claims 49-53 have been added. Claims 1-23, 25, 26, 28-35, and 37-53 are thus now pending in the application.

Office Action Summary

In the Office Action mailed July 13, 2007, Claims 7-16 and 18-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hull (*Introduction to Futures & Options Markets*) in view of "Disclosed Prior Art" (citing applicant's specification at page 27, lines 1-6) and Options (*Options: Essential Concepts & Trading Strategies*). Claims 1-6, 17, and 30-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hull in view of Disclosed Prior Art, Options, and Rosen (U.S. Patent No. 5,453,601).

Interview Summary

Prior to discussing the Office Action and the patentability of the claims, the undersigned counsel wishes to thank Examiners Jason Borlinghaus and James Kramer for the time and consideration they extended in a personal interview conducted October 18, 2007. In summary, the interview focused on the independent claims and proposed amendments that make the claims patentable over the cited art (Hull, Options, Disclosed Prior Art, and Rosen). At the conclusion of the interview, applicant agreed to formally submit the present amendment.

The Office Action first addressed Claims 7-16 and 18-29, followed by Claims 1-6, 17, and 30-48. For ease of examination, applicant will follow the same order when discussing the claims in this response.

Claim Objections

As a preliminary matter, applicant has amended the claims to address the claim objections set forth on page 2 of the Office Action. Withdrawal of the claim objections is therefore requested.

Claims 7-12, 25, 26, and 50 Are Patentable Over the Prior Art

Claim 7 recites as follows:

7. A method of facilitating trading, comprising:
automatically receiving a short term option request from a user, the term of the short term option being about ten seconds or less measured from when the short term option is granted, wherein the short term option request is automatically received as a result of user trading activity without an explicit request for the short term option from the user, and
automatically requesting the short term option from a market process, the market process being a computer program executing on a computer system and implementing rules of engagement by which information or merchandise is exchanged between trading processes.

Applicant maintains that the prior art does not disclose or suggest a short term option having a term "being about ten seconds or less." The Office Action acknowledged the deficiency of Hull in this regard. Further, Hull does not disclose or suggest a short term option having a term that is "measured from when the option is granted." Instead, Hull refers to conventional options that have a variable term measured in reference to a predetermined expiration date that is known prior to grant of the option. See, e.g., page 26, line 30, of the present application. The prior art also fails to disclose or suggest the feature "wherein the short term option request is automatically received as a result of user trading activity without an explicit request for the short term option from the user."

In rejecting Claim 7, the Office Action cited applicant's own specification at page 27, lines 1-6. Applicant disputes that this disclosure, cited as "Disclosed Prior Art," satisfies the deficiencies found in Hull and the other published art. In applicant's specification, the paragraph beginning "Conventional options . . . " clearly discusses options that expire at a predetermined

expiration time (e.g., at the close of the market on the third Friday of the month). The expiration date of a conventional option does not vary based on when the option is granted. Even where the specification indicates that the International Securities Exchange has provided an "automated facility" for trading options, the facility is explicitly described as trading "these conventional options."

The same paragraph discussing conventional options further refers to so-called "forwards." Traders may maintain an option position with an expiration time that is rolled forward by buying (or selling) an option with the same strike price but with a different expiration time and close their current option position. This does not teach or suggest "a short term option . . . , the term of the option being about ten seconds or less measured from when the option is granted," as recited in Claim 7.

The paragraph that follows (beginning "In conventional human-directed markets . . . ") also fails to teach or suggest the subject matter claimed in Claim 7. Rather, this paragraph continues to refer conventional human-directed markets. Short term options of "about ten seconds or less" are distinguished over the prior art, precisely because human response times in human-directed markets, which are measured in tens of seconds (see page 27, lines 4-6), is longer than computer response times which can be much less. Indeed, due to human reaction times, a short term option having a duration of one second or less may be considered useless, since a human cannot physically take another trading action in such a short time. See page 27, lines 6-8, of the present application.

The Office Action further relied on Options for its disclosure of traders termed "scalpers" who hold positions for short time durations. So-called scalpers are engaged in trading positions that have a starting and ending value, and hope to gain on the trade by capturing a higher ending value. The length of time that a scalper may hold a position (e.g., for "10 seconds to 3 minutes") has no bearing on the availability of a short term option as claimed.

Applicant respectfully disagrees that it would have been obvious for one of ordinary skill in the art to modify Hull and Disclosed Prior Art to allow for an option having *any* option term. Nevertheless, applicant has further defined the method of Claim 7 to incorporate the subject matter previously defined in Claim 24 (now canceled).

As per amended Claim 7, the short term option request "is automatically received as a result of user trading activity without an explicit request for the short term option from the user." In the specification, applicant described the nature and utility of short term options, particularly in a trading environment where computer processes representing orders interact with computerized market processes to bring about executed trades. In one particular example, the specification discloses the use of short term options to enable guaranteed execution of a linked order. See page 111, line 8, to page 114, line 3, as well as the discussion of a "stop" (short term option) order manager at page 33, line 29, to page 35, line 8, and a linked order execution manager at page 35, line 10, to page 36, line 10.

A user may engage in trading activity in which the user submits a linked order using a software trading process called an "electronic liquidity finder" or "ELF." The linked order may have an objective function associated therewith, the objective function having a condition associated with each leg of the linked order. As explained at page 111, lines 18-28, of the application as filed:

[L]inked order controller 71 checks whether an objective function for the linked order is satisfied. Generally, an objective function comprises at least one 20 condition for each leg of the linked order. An order room determines how many of the conditions need to be true for the objective function to be satisfied. Thus, a trader can define a so-called program trade, and require that all legs precisely satisfy the objective function, or specify that, e.g., if 95% of the conditions are satisfied, then the objective function is satisfied. If the objective function is not satisfied, processing returns to step 7010 to monitor relevant market changes forwarded by the order ELFs.

When the objective function is satisfied, at step 7030, linked order controller 71 tells all pertinent order ELFs to request stops. At step 7040,

linked order controller 71 checks whether stops have been granted for all legs of the linked order. (Emphasis added.)

While, in the foregoing example, the user submitted a linked order as a result of the user's trading activity, the user did not explicitly request a short term option. Yet, in processing the linked order as described, the linked order controller 71 automatically took action to have the pertinent order processes (or "ELFs") request short term options (or "stops") for all the legs of the linked order.

Figure 97 and the corresponding disclosure at page 112, line 27, to page 114, line 3, also provide an example of user trading activity that results in a request for a short term option without an explicit request for the short term option from the user. Again, in this example, the user has submitted a linked order for execution. As noted at page 113, lines 4-5: "At step 7115, linked order controller 71 instructs pertinent ELFs to get stops for the legs of the linked order. See FIG. 96, step 7030."

Where neither Hull nor Disclosed Prior Art or Options teaches the claimed elements of "automatically receiving a short term option request from a user, the term of the short term option being about ten seconds or less measured from when the short term option is granted, wherein the short term option request is automatically received as a result of user trading activity without an explicit request for the short term option from the user" and "automatically requesting the short term option from a market process, the market process being a computer program executing on a computer system and implementing rules of engagement by which information or merchandise is exchanged between trading processes," the rejection of Claim 7 should be withdrawn and the claim allowed.

Claims 8-12, 25, and 26, as well as new Claim 50, should also be allowed, both for their dependence on allowable Claim 7, and for the additional subject matter they recite.

For example, Claim 25 further states "wherein the short term option request is automatically received as a result of processing a linked order received from the user," and

according to new Claim 50, "the linked order is comprised of a plurality of orders for different items, each order including an item and an indicated price for the item, for joint execution of the orders at the indicated prices, wherein the short term option maintains a price for an item to ensure that the order for the item can be executed at the respective indicated price when the linked order is executed." In addition, Claim 26, which depends from Claim 12, further recites "wherein the automatically receiving and requesting are performed by multiple trading processes that are simultaneously and independently representing multiple orders of the user." These features are not taught or suggested in the cited art. The claims should be allowed.

Claims 13-23, 28, 29, and 51 Are Patentable Over the Prior Art

Claim 13 recites as follows:

13. A method of facilitating trading, comprising:
receiving, at a computer program executing on a computer system and implementing rules of engagement by which information or merchandise is exchanged between trading processes, a request for a short term option having a term of about ten seconds or less measured from when the short term option is granted, wherein the request for the short term option is automatically received as a result of trading activity of a user without an explicit request for the short term option from the user, and
automatically granting the short term option.

As with Claim 7 discussed above, neither Hull nor Disclosed Prior Art teaches a short term option having a term of about ten seconds or less measured from when the option is granted.

In addition, applicant has further defined the method of Claim 13 to incorporate the subject matter previously defined in Claim 27 (now canceled). Hull and Disclosed Prior Art do not teach "wherein the request for the short term option is automatically received as a result of trading activity of a user without an explicit request for the short term option from the user."

Consequently, with respect to Claim 13, the cited art cannot be combined to render obvious the elements as claimed. The reference to "scalpers" in Options is also not availing.

The Section 103(a) rejection of Claim 13 based on Hull, Disclosed Prior Art, and Options should be withdrawn and the claim allowed.

Claims 14-23, 28, and 29 as well as new Claim 51, are also patentable, both for their dependence (directly or indirectly) from patentable Claim 13 and for the additional subject matter they recite. For example, Claim 17 recites the method of Claim 13, wherein the method further comprises "automatically requesting a platform process to instantiate and set a timer to indicate when the short term option has expired and terminate the instance of the timer when the short term option has expired." The Office Action cited Rosen (U.S. Patent No. 5,453,601) in support of its rejection of Claim 17, but Rosen does not provide disclosure that overcomes the deficiencies of Hull and Disclosed Prior Art, as discussed above, nor does Rosen teach the elements claimed in Claim 17. The suggestion of "some management system to monitor and administer the options at expiration time," as stated in the Office Action (page 13), still does not meet the language of Claim 17 ("instantiate and set a timer . . . and terminate the timer").

Claims 28, 29, and 51 should be allowed for reasons similar to those discussed above relative to Claims 25, 26, and 50.

Claims 1-6, 30, and 49 Are Patentable Over the Prior Art

Claim 1 recites as follows:

1. A method of facilitating trading, comprising:
automatically receiving a request for a short term option, wherein the request for the short term option is received as a result of trading activity of a user without an explicit request for the short term option from the user,
automatically receiving a timer request for a timer to measure the duration of the short term option, wherein the term of the short term option is about ten seconds or less measured from when the short term option is granted, and wherein the request is received from a market process, the market process being a computer program executing on a computer system and implementing rules of engagement by which information or merchandise is exchanged between trading processes,

in response to the timer request, automatically instantiating the timer and setting the timer to indicate the short term option expiration time, and

automatically terminating the instance of the timer upon expiration of the short term option.

Claims 1-6 were rejected under Section 103(a) as being unpatentable over Hull in view of Disclosed Prior Art and Rosen (U.S. Patent No. 5,453,601) (Office Action, page 10). Rosen was cited for its disclosure of utilizing a timer or clock to indicate an expiration time. Hull and Disclosed Prior Art, even if combined with Rosen, do not disclose "in response to [a] timer request, automatically instantiating the timer and setting the timer to indicate the short term option expiration time" and "automatically terminating the instance of the timer upon expiration of the short term option." Additionally, Hull, Disclosed Prior Art, and Rosen do not teach "automatically receiving a timer request for a timer to measure the duration of a short term option, wherein the term of the option is about ten seconds or less measured from when the option is granted, and wherein the request is received from a market process, the market process being a computer program executing on a computer system and implementing rules of engagement by which information or merchandise is exchanged between trading processes."

The Office Action (page 13) surmised that Rosen must include "some management system to monitor and administer the options at expiration time" and that "[i]nitiation and/or termination of a timer function" is old and well known. This argument, however, is not commensurate with the language of Claim 1, which includes, in part, "*instantiating the timer and setting the timer...and...terminating the timer*".

Furthermore, the method of Claim 1 further includes "automatically receiving a request for a short term option, wherein the short term option request is received as a result of trading activity of a user without an explicit request for the short term option from the user." As discussed above relative to Claims 1 and 13, this feature is not disclosed or suggested in the cited art. Claim 1 should be allowed.

Applicant notes that the amendment in Claim 1, as well as in other claims in the application, to add the words "short term" in front of "option" merely makes consistent the use of the term "short term option" in the claims. This amendment does not narrow the scope of the claims.

Claims 2-6, 30, and 49 are also patentable, for their dependence on patentable Claim 1 and for the additional subject matter they recite. For example, Claim 5 recites the method of Claim 1, "further comprising creating a short term option manager process in response to the timer request, and upon expiration of the short term option, terminating the short term option manager process." From a reading of Hull, it is not necessarily inherent that the "Options Clearing Corporation (OCC)" creates a short term option manager process, as claimed, in response to a timer request and terminates the process upon expiration of the short term option.

For another example, Claim 30 recites that the term of the short term option "is about one second or less measured from when the option is granted." A similar feature is set forth in Claims 11 and 15, as well as Claims 35 and 40. This feature is not taught or suggested in the cited art.

New Claim 49 further recites the method of Claim 1, "wherein the request for the short term option is automatically received as a result of processing a linked order received from the user, wherein the linked order is comprised of a plurality of orders for different items, each order including an item and an indicated price for the item, for joint execution of the orders at the indicated prices, wherein the short term option maintains a price for an item to ensure that the order for the item can be executed at the respective indicated price when the linked order is executed," which is not taught or suggested in the cited art.

For the foregoing reasons, Claims 2-6, 30, and 49 should be allowed.

Claims 31-37 and 52 Are Patentable Over the Prior Art

Claim 31 is directed to a computer-accessible medium having executable instructions stored thereon for facilitating trading. The instructions form a trading process that, when

executed, causes a computer to generate a short term option request on behalf of a user and communicate the short term option request to a market process. The short term option request is generated as a result of user trading activity without an explicit request for the short term option from the user and the term of the option is about ten seconds or less measured from when the option is granted. The market process is a computer program executing on a computer system and implementing rules of engagement by which information or merchandise is exchanged between trading processes.

Applicant submits that, for reasons similar to those discussed above, the elements of Claim 31 are not shown in the prior art, and thus Claim 31 should be allowed. Additionally, applicant submits that Claims 32-37 and 52, which depend either directly or indirectly from Claim 31, should also be allowed, both for their dependence on an allowable claim and for the additional subject matter they recite. Claim 36 has been canceled as its subject matter has been incorporated into Claim 31.

Claims 38-48 and 53 Are Patentable Over the Prior Art

Claim 38 is directed to a system for facilitating trading that includes a computer having a processing component. The processing component is configured to implement rules of engagement by which information or merchandise is exchanged between trading processes. The processing component is further configured to receive a request for a short term option having a term of about ten seconds or less measured from when the short term option is granted, and to grant the short term option. The short term option request is received as a result of user trading activity without an explicit request for the short term option from the user.

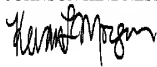
For reasons similar to those discussed above, applicant submits that the elements of Claim 38 are not shown in Hull, Disclosed Prior Art, Options, and Rosen, and thus Claim 38 should be allowed. Additionally, applicant submits that Claims 39-48 as well as new Claim 53, which depend either directly or indirectly from Claim 38, should also be allowed, both for their dependence on an allowable claim and for the additional subject matter they recite.

CONCLUSION

In view of the amendments and remarks discussed above, applicant submits that the claims are patentable over the cited art. Action to that end at an early date is requested. Should any issues remain needing resolution prior to allowance, the Examiner is invited to contact the undersigned counsel by telephone.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



Kevan L. Morgan
Registration No. 42,015
Direct Dial No. 206.695.1712